

Message Text

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PAGE 01 ROME 17056 01 OF 02 091841Z

43

ACTION L-02

INFO OCT-01 EUR-12 ISO-00 TRSE-00 EB-07 COME-00 FRB-01

OPIC-03 AID-05 SP-02 SSO-00 CIAE-00 INR-05 NSAE-00

RSC-01 INRE-00 SS-15 NSC-05 NSCE-00 PA-01 PRS-01

USIE-00 SAM-01 /062 W

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O R 091724Z DEC 74

FM AMEMBASSY ROME

TO SECSTATE WASHDC IMMEDIATE 8565

INFO AMCONSUL MILAN

AMCONSUL NAPLES

LIMITED OFFICIAL USE SECTION 1 OF 2 ROME 17056

E.O. 11652: N/A

TAGS: EFIN, IT

SUBJECT: US-ITALY DOUBLE TAXATION CONVENTION

PASS TREASURY FOR NATHAN GORDON AND DONALD HENG

REF: (A) STATE 193533 (B) STATE 194587 (C) ROME 12759

(D) ROME 9012

1. SUMMARY. EMBASSY ON DECEMBER 9 RECEIVED FROM ITALIAN MINISTRY OF FOREIGN AFFAIRS NOTE VERBALE OF SAME DATE IN REPLY TO USG NOTE VERBALE DATED SEPTEMBER 6 (SEE REF C) RE US-ITALY DOUBLE TAXATION CONVENTION. (RECEIPT OF ITALIAN NOTE FOLLOWED DEMARCHES BY EMBOFFS TO MINFIN ON NOVEMBER 15, 21 AND DECEMBER 6 AND TO FONMIN ON DECEMBER 6.) INCLUDED BELOW IS EMBASSY'S INFORMAL TRANSLATION OF: (1) GOI NOTE VERBALE; (2) DRAFT LETTER ADDRESSED TO US AMBASSADOR; AND (3) DRAFT TEXT OF JOINT PRESS COMMUNIQUE. ACTION REQUESTED: TRANSMITTAL OF DRAFT LETTER AND NOTE VERBALE TO COMPLETE ACTION ON THIS MATTER. END SUMMARY.

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PAGE 02 ROME 17056 01 OF 02 091841Z

2. ITALIAN NOTE VERBALE 079/23304 OF DECEMBER 9, 1974.

BEGIN QUOTE. THE MINISTRY OF FOREIGN AFFAIRS PRESENTS ITS COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA AND HAS THE HONOR TO REFER TO THE EMBASSY'S NOTE VERBALE NO. 521 DATED SEPTEMBER 6, 1974, IN WHICH IT IS STATED THAT THE U.S. GOVERNMENT WILL CONSIDER THE POSSIBILITY OF REVOKING ITS DENOUNCIATION OF THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT WASHINGTON ON MARCH 30, 1955, WHICH DENOUNCIATION WAS CONTAINED IN THE EMBASSY'S NOTE VERBALE NO. 318 DATED JUNE 29, 1974, THE REVOCATION OF WHICH WILL BE POSSIBLE FOLLOWING:

- AN EXCHANGE OF NOTES WHICH INSURES THE CONTINUED APPLICATION OF THE AFOREMENTIONED CONVENTION;
- THE ISSUANCE OF A JOINT PRESS COMMUNIQUE WHICH, IN ANNOUNCING THE COMPLETION OF THE AFOREMENTIONED EXCHANGE OF NOTES, WOULD EXPLAIN THE METHOD OF APPLICATION OF THE NEW ITALIAN TAXES TO DIVIDENDS AND TO ROYALTIES;
- THE INITIATION OF NEGOTIATIONS REGARDING THE MODIFICATION OF THE AFOREMENTIONED CONVENTION.

PARA 2. WITH RESPECT TO THE FOREGOING, THE MINISTRY OF FOREIGN AFFAIRS HAS THE HONOR TO TRANSMIT A DRAFT OF THE AFOREMENTIONED EXCHANGE OF NOTES, WHILE POINTING OUT THAT THE ENTRY INTO FORCE IN ITALY OF THE EXCHANGE OF NOTES IS CONDITIONED UPON RATIFICATION BY PARLIAMENT AS AN INTERNAL MATTER, BUT NOTING THAT, NONETHELESS, THE EXCHANGE OF NOTES SHALL APPLY PROVISIONALLY FROM JANUARY 1, 1974.

PARA 3. ALSO ATTACHED HEREWITH IS THE TEXT OF A JOINT COMMUNIQUE WHICH SUBSTANTIALLY RE-STATES THE CONTENTS OF THAT PROPOSED BY THE EMBASSY.

PARA 4. WITH RESPECT TO THE NEGOTIATIONS CONCERNING THE REVISION OF THE 1955 CONVENTION, THE MINISTRY BELIEVES THAT IT CAN AFFIRM THAT SUCH NEGOTIATIONS MAY BEGIN IN THE FIRST FEW MONTHS OF NEXT YEAR.

PARA 5. THE MINISTRY OF FOREIGN AFFAIRS AWAITS CONFIRMATION THAT THE TEXTS SUBMITTED WITH THE PRESENT NOTE VERBALE CAN BE CONSIDERED TO BE DEFINITIVE AND AWAITS THE DECISION OF LIMITED OFFICIAL USE

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PAGE 03 ROME 17056 01 OF 02 091841Z

UNITED STATES AUTHORITIES REGARDING THE DENUNCIATION OF THE CONVENTION.

PARA 6. THE MINISTRY OF FOREIGN AFFAIRS TAKES THIS OCCASION TO RENEW TO THE UNITED STATES EMBASSY THE ASSURANCE OF ITS HIGHEST CONSIDERATION. END QUOTE.

3. LETTER FROM AMBASSADOR GUAZZARONI TO AMBASSADOR VOLPE.

BEGIN QUOTE. DEAR MR. AMBASSADOR: I HAVE THE HONOR TO REFER TO THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME SIGNED AT WASHINGTON ON MARCH 30, 1955.

PARA 2. AS YOU ARE AWARE, THE ITALIAN GOVERNMENT MADE FUNDAMENTAL CHANGES IN ITS TAX STRUCTURE WITH EFFECT FROM JANUARY 1, 1974.

PARA 3. IN ORDER TO CONTINUE THE MUTUALLY ADVANTAGEOUS RELATIONSHIP WHICH HAS DEVELOPED BETWEEN OUR TWO COUNTRIES UNDER THE CONVENTION, THE ITALIAN GOVERNMENT PROPOSES TO APPLY PROVISIONALLY THE CONVENTION TO THE NEW NATIONAL TAXES ON INCOME, EFFECTIVE AS OF JANUARY 1, 1974, IN ORDER TO ASSURE THE CONTINUED APPLICATION OF THE AFOREMENTIONED CONVENTION.

PARA 4. ACCORDINGLY, THE ITALIAN GOVERNMENT WILL, FROM JANUARY 1, 1974, APPLY THE PROVISIONS TO: (1) THE INCOME TAX ON PHYSICAL PERSONS (IMPOSTA SUL REDDITO DELLE PERSONE FISICHE), AND (2) THE INCOME TAX ON JURIDICAL PERSONS (IMPOSTA SUL REDDITO DELLE PERSONE GIURIDICHE).

PARA 5. I HAVE THE HONOR TO PORPOSE THAT THE PRESENT NOTE, AND YOUR REPLY THERETO, WILL CONSITITE AN AGREEMENT BETWEEN OUR TWO GOVERNMENTS FOR THE PORPOSE OF THE APPLICATIN OF THE AFOREMENTIONED CONVENTION.

PARA 6. PLEASE ACCEPT, MR. AMBASSADOR, THE ASSURANCE OF MY HIGHEST CONSIDERATION. END QUOTE.

4. JOINT PRESS COMMUNIQUE. BEGIN QUOTE. DRAFT PROPOSED JOINT PRESS RELEASE OF THE ITALIAN GOVERNMENT AND THE UNITED LIMITED OFFICIAL USE

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PAGE 04 ROME 17056 01 OF 02 091841Z

STATES GOVERNMENT.

PARA 1. THE ITALIAN GOVERNMENT AND THE GOVERNMENT OF THE UNITED STATES HAVE TODAY ANNOUNCED AGREEMENT TO THE EFFECT THAT, FOLLOWING THE ADOPTION OF FUNDAMENTAL CHANGES IN ITALIAN TAX LEGISLATION, THE US-ITALY CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME OF MARCH 30, 1955, SHALL BE CONSIDERED TO BE APPLICABLE T THE ITALIAN INCOME TAXES ON PHYSICAL PERSONS (IMPOSTA SUL REDDITO DELLE PERSONE FISICHE) AND ON JURIDICAL PERSONS (IMPOSTA SUL REDDITO DELLE PERSONE GIURIDICHE) AS OF JANUARY 1, 1974, THE DATE WHEN THE TWO NEW TAXES CAME INTO EFFECT.

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PAGE 01 ROME 17056 02 OF 02 091903Z

43

ACTION L-02

INFO OCT-01 EUR-12 ISO-00 TRSE-00 EB-07 COME-00 FRB-01

OPIC-03 AID-05 SP-02 SSO-00 CIAE-00 INR-05 NSAE-00

RSC-01 SS-15 INRE-00 NSC-05 NSCE-00 PA-01 PRS-01

USIE-00 SAM-01 /062 W

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O R 091724Z DEC 74

FM AMEMBASSY ROME

TO SECSTATE WASHDC IMMEDIATE 8566

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LIMITED OFFICIAL USE SECTION 2 OF 2 ROME 17056

PASS TREASURY FOR NATHAN GORDON AND DONALD HENG

PARA 2. AN EXCHANGE OF NOTES WAS ENTERED INTO BETWEEN THE TWO GOVERNMENTS WHICH ASSURES THE CONTINUED APPLICATION OF THE CONVENTION WITHOUT INTERRUPTION WITHIN THE AFOREMENTIONED TERMS. THE ANNOUNCEMENT WAS MADE SIMULTANEOUSLY IN ROME AND WASHINGTON.

PARA 3. ACCORDINGLY, THE ITALIAN TAX ON DIVIDENDS PAID BY AN ITALIAN CORPORATION TO A UNITED STATES RESIDENT OR TO AN U.S. CORPORATION NOT HAVING A PERMENENT ESTABLISHMENT IN ITALY WILL BE LIMITED TO 15 PERCENT (OR TO 5 PRCENT IN THE CASE WHERE THE UNITED STATES CORPORATION OWNS 95 PERCENT OF THE VOTING POWER OF THE ITALIAN CORPORATION PAYING THE DIVIDEND AND WHICH SATIFIES SUCH OTHER QUALIFICATIONS AS THE CONVENTION PROVIDES).

PARA 4. THE ROYALTIES PAID BY AN ITALIAN LICENSEE TO U.S. RESIDENTS OR CORPORATIONS NOT HAVING A PERMANENT ESTABLISHMENT IN ITALY SHALL NOT BE SUBJECT TO THE INCOME TAX ON PHYSICAL PERSONS NOR TO THE INCOME TAX ON JURIDICAL PERSONS.
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PAGE 02 ROME 17056 02 OF 02 091903Z

PARA 5. SIMILARLY, IN THE CASE OF DIVIDENDS AND ROYALTIES PAID FROM U.S. SOURCES TO ITALIAN RESIDENTS OR CORPORATIONS, THE SAME LIMITATIONS OR EXEMPTIONS SHALL APPLY AS REGARDS U.S. TAXES.

PARA 6. THE LOCAL TAX ON INCOME (ILOR) OWED IN ITALY BY U.S. RESIDENTS OR CORPORATIONS, AND FOR WHICH THERE IS NO PROVISION FOR WITHHOLDING AT THE SOURCE, SHALL BE APPLIED ON THE BASIS OF THE ANNUAL TAX DECLARATIONS OF THE AFOREMENTIONED RESIDENTS OR CORPORATIONS.

PARA 7. BOTH COUNTRIES HAVE EXPRESSED THEIR WILLINGNESS PROMPTLY TO BEGIN NEGOTIATIONS DESIGNED TO UPDATE THE CONVENTION IN LIGHT OF THE MODIFICATIONS MADE IN THE TAX LEGISLATION OF THE TWO CUNTRIES, OF THE EXPERIENCE GAINED SINCE IT WAS FIRST SIGNED IN 1955, AND OF THE DEVELOPMENTS IN THE ORGANIZATON FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) OF WHICH BOTH COUNTRIES ARE MEMBERS, AS REGARDS THE ELIMINATION OF INTERNATIONAL DOUBLE TAXATION.

PARA 8. THE PROSPECTIVE NEGOTIATIONS WILL ALSO SEEK TO EXAMINE, WITH A VIEW TO SEEKING A POSSIBLE SOLUTION THEREOF, THE PROBLEM OF THE EXTENSION OF THE APPLICABILITY OF THE CONVENTION TO THE AFOREMENTIONED ITALIAN LOCAL INCOME TAX (ILOR), BEARING IN MIND ALL OF THE ELEMENTS RELATING TO SUCH A SOLUTION. END QUOTE.

5. COMMENT. ITALIAN RESPONSE TO USG NOTE VERBALE CONCERNING EXCHANGE OF LETTERS AND JOINT PRESS COMMUNIQUE VARIES ONLY SLIGHTLY IN FORM AND SUBSTANCE FROM SUGGESTED LANGUAGE CONVEYED IN USG NOTE (REF C). AS NOTED IN TEMPLEMAN-GORDON TELECON OF DECEMBER 9, MAIN DIFFERENCES ARE: (1) REFERENCE TO "PROVISIONAL" NATURE OF APPLICATION OF CONVENTION TO NEW ITALIAN TAXES IN ANTICIPATION OF PARLIAMENTARY RATIFICATION AND OF EVENTUAL RE-NEGOTIATION OF TREATY; (2) STRESS ON "FUNDAMENTAL" NATURE OF RECENT CHANGES IN ITALIAN TAX LEGISLATION; (3) MORE EXPLICIT STATEMENT OF EXTENT OF LIMITATIONS AND EXCEPTIONS PROVIDED FOR ROYALTY PAYMENTS; (4) STRONGER STATEMENT THAT ROYALTY PAYMENTS ARE SUBJECT TO NEW LOCAL INCOME TAX (ILOR) BUT ALSO THAT TREATY

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PAGE 03 ROME 17056 02 OF 02 091903Z

RE-NEGOTIATIONS WILL INCLUDE EXAMINATION OF POSSIBLE EXTENSION OF CONVENTION TO COVER ILOR; AND (5) ADDITION OF

SPECIFIC REFERENCE TO CHANGES IN US AND ITALIAN TAXATION
AS REASON FOR RE-NEGOTIATING CONVENTION.

6. RE POROCEDURES FOR EXCHANGE OF LETTERS, MFA HAS SUGGESTED
THAT MFA DIRECTOR GENERAL FOR ECONOMIC AFFAIRS GUAZZARONI
(WITH RANK OF AMBASSADOR) SIGN LETTER ON BEHALF OF GOI IN
ORDER TO SIMPLIFY PROCEDURE AND TO AVOID POSSIBLE FURTHER
DELAY WHICH INEVITABLY WOULD BE THE CASE IF GOI LETTER WERE
SIGNED BY FOREIGN MINISTER RUMOR. RE REVOCATION BY USG OF
PRIOR NOTIFICATION TO TERMINATE CONVENTION (REF D), GOI
PREFERS THAT THIS BE EFFECTUATED IN SEPARATE NOTE FROM THAT
WHICH WILL FORM BASIS OF EXCHANGE OF LETTERS. (EXCHANGE
OF LETTERS WILL PROBABLY BE PUBLISHED, WHEREAS GOI WOULD
NOT WANT IT PUBLICLY KNOWN THAT USG HAD RESORTED TO
NOTIFICATION OF TERMINATION.) USG LETTER AND NOTE VERBALE
COULD BE CONVEYED SEPARATELY BUT SIMULTANEOUSLY.

7. ACTION REQUESTED. EMBASSY REQUESTS THAT DRAFT LETTER
FROM U.S. AMBASSADOR IN REPLY TO ITALIAN LETTER AND SEPARATE
USG NOTE VERBALE REVOKING OUR EARLIER NOTIFICATION OF
TERMINATION OF CONVENTION BE TRANSMITTED TO EMBASSY ASAP.
VOLPE

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Message Attributes

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TAGS: EFIN, IT, US
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